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JUN 04 2007

In re Application of:

GOULET, FRANCINE et al

Serial No.: 09/990,320

Filed: Nov. 23, 2001

Docket: 31014/41515

Title: CONNECTIVE TISSUE SUBSTITUTES,
METHOD OF PREPARATION AND
USES THEREOF

DECISION ON PETITION TO
WITHDRAW OF HOLDING
OF FINALITY

This is a decision on the petition filed on Nov. 28, 2005 to withdraw the finality of the Office Action of Jul. 25, 2005. The petition is being considered pursuant to 37 CFR 1.181 and no fee is required for the petition.

The petition is **DISMISSED as moot.**

In the petition the applicant requested a withdrawal of the finality of the Office action mailed on Jul. 25, 2005. In support of his petition, the applicant argues that the first action final Office action on Jul. 25, 2005 after the filing of an RCE under 37 CFR 1.114 was improper according to MPEP 706.07(b).

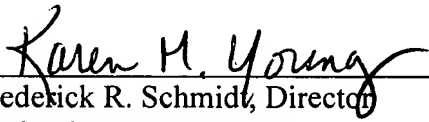
The record shows that:

- 1) In response to a non-final Office action, on Oct. 6, 2003, the applicant filed an amendment to claims 12, 18 and 19 and presented new claims 45-48.
- 2) On Dec. 22, 2003, the examiner issued a final Office action with new grounds of rejection because the new grounds of rejection were necessitated by the amendment filed Oct. 6, 2003.
- 3) On May 21, 2004, the applicant filed an RCE for further continuing examination of the application. The only amendments to the claims submitted with the RCE filed on May 21, 2004 were to fix typographical errors in claims 10 and 18.
- 4) On Jul. 25, 2005, the examiner issued a first action final Office action on the grounds that all of the claims were drawn to the same invention in the earlier application and could have been finally rejected on the grounds and art of record in the next Office action if they had been entered in the earlier application in accordance with MPEP 706.07(b).

- 5) On Nov. 28, 2005, the applicant filed the current request for withdrawal of finality of office action and issuance of a new office Action.
- 6) On Jan. 3, 2006, the applicant filed an RCE for further continuing examination of the application.
- 7) On Mar. 16, 2006, the examiner withdrew the finality of the final Office action of Jul. 25, 2005 and issued a non-final Office action.

In view of the prosecution history, the relief the applicant requested, namely the withdrawal of the finality of the Jul. 25, 2005 Office Action, has already occurred. Accordingly, the petition is dismissed as moot.

Any inquiry regarding this decision should be directed to Marc Jimenez, Training Quality Assurance Specialist, at (571) 272-4530.



Frederick R. Schmidt, Director
Technology Center 3700